

E FILED ON 4/13/10  
THOMAS E. CROWE, ESQ.  
THOMAS E. CROWE PROFESSIONAL  
LAW CORPORATION  
7381 W. Charleston Blvd.  
Suite 110  
Las Vegas, Nevada 89117  
(702) 794-0373  
Attorney for Movants  
Virginia Springall-Smith and Shane Smith

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

\* \* \* \* \*

In re:

THE RHODES COMPANIES, LLC,	)	BANKRUPTCY NUMBER:
	)	BK-S-09-14814-LBR
	)	Chapter 11
	)	
Debtor.	)	Date: 5/11/10
_____	)	Time: 1:30 p.m.

**CORRECTED MOTION FOR RELIEF FROM STAY**

COME NOW Virginia Springall-Smith and Shane Smith [hereinafter referred to as “Movants”], by and through their attorney, THOMAS E. CROWE, ESQ., and move this Honorable Court for an Order for Relief From Stay. Movants’ previously filed a Motion for Relief From Stay on the same grounds presented herein and, although that Motion was granted, this Corrected Motion is necessary in that Movant Shane Smith’s name was inadvertently not included in Movant’s original Motion and order granting said motion. This Corrected Motion is made and based upon the papers and pleadings on file herein, the Points and authorities attached hereto, and oral

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argument at the time of hearing.

DATED this 12<sup>th</sup> day of April, 2010.

THOMAS E. CROWE PROFESSION  
LAW CORPORATION

/s/ THOMAS E. CROWE  
THOMAS E. CROWE  
State Bar No. 3048  
7381 W. Charleston Blvd.  
Suite 110  
Las Vegas, NV 89117  
Attorney for Movants

**POINTS AND AUTHORITIES**

1. On or about March 31, 2009, the above-named Debtor filed a Chapter 11 Petition in Bankruptcy with this Court. Gung Co Concrete is the Debtor in a jointly administered Chapter 11 case entitled The Rhodes Companies, L.L.C., et. al., case No. 09-14814-LBR (Jointly Administered).

2. Movants are informed and believe, and, based upon such information and belief, allege, that insurance proceeds independent of the Debtor are in existence to pay the claim of Movants from non-estate source. The claim is generated from an action pending in District Court, Clark County, Nevada, Case Number A-09-593034-C, Virgina Springall-Smith, an individual, and Shane Smith, an individual vs. Roberto Guzman-Lagunas, an individual; Gung-Ho Concrete, LLC, a Nevada corporation, a Nevada Corporation, DOES I through V, and ROE CORPORATIONS I through V, inclusive.

3. Movants request the Court lift the stay to allow the District Court action against the Debtor to go forward to judgment or settlement with the understanding that no estate

assets may be encumbered by such action, but that Movants may proceed against insurance proceeds independent of the estate and file a claim against Debtor for any unpaid judgment amount.

WHEREFORE, Movants pray judgment as follows:

1. For an Order lifting the stay to allow Movants Virginia Springall-Smith and Shane Smith to proceed against Debtor toward judgment or settlement with the understanding that no estate assets may be encumbered by such action, but that Movants may proceed against insurance proceeds independent of the estate and file a claim against Debtor for any unpaid judgment amount.

2. For Attorney's fees and costs of suit incurred herein.

3. For such other and further relief as this Court may deem necessary.

DATED this 12<sup>th</sup> day of April, 2910.

THOMAS E. CROWE PROFESSIONAL  
LAW CORPORATION

By /s/ THOMAS E. CROWE  
THOMAS E. CROWE, ESQ.  
7381 W. Charleston Blvd.  
Suite 110  
Las Vegas, NV 89117  
Attorney for Movants

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THOMAS E. CROWE, ESQ.  
THOMAS E. CROWE PROFESSIONAL  
LAW CORPORATION  
7381 W. Charleston Blvd.  
Suite 110  
Las Vegas, Nevada 89117  
(702) 794-0373  
Attorney for Movants  
Virginia Springall-Smith and Shane Smith

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

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In re:

THE RHODES COMPANIES, LLC,	)	BANKRUPTCY NUMBER:
	)	BK-S-09-14814-LBR
	)	Chapter 11
	)	
Debtor.	)	Date: 5/11/10
	)	Time: 1:30 p.m.

**PROPOSED ORDER RE: CORRECTED MOTION FOR RELIEF FROM STAY**

Upon consideration of the Corrected Motion for Relief From Stay (the "Motion") filed by Virginia Springall-Smith and Shane Smith, by and through their attorney, THOMAS E. CROWE, ESQ., and for good cause appearing

IT IS HEREBY ORDERED THAT

1. The Motion is granted as set forth herein.

2. The automatic stay under section 362 of the Bankruptcy Code shall be modified to permit Virginia Springall-Smith and Shane Smith to prosecute the action entitled Virginia Springall-Smith, an individual, and Shane Smith, an individual vs. Roberto Guzman-Lagunas, an individual; Gung-Ho Concrete, LLC, a Nevada corporation, a Nevada Corporation, DOES I through V, and ROE CORPORATIONS I through V, inclusive, currently pending in District Court, Clark County, Nevada, Case Number A-09-593034-C, in order to allow Virginia Springall-Smith and Shane Smith to liquidate their claim and pursue any recovery from insurance proceeds only. Virginia Springall-Smith and Shane Smith may not file a claim against the estate or seek any recovery from the Debtor, and expressly waives any and all right to distribution from the Debtor's estate.

APPROVED/DISAPPROVED

Dated this \_\_\_\_ day of \_\_\_\_\_, 2010.

By: \_\_\_\_\_  
UNITED STATES TRUSTEE  
AUGUST LANDIS  
Office of the United States Trustee  
300 Las Vegas Blvd., So., #4300  
Las Vegas, NV 89101

Submitted by:

THOMAS E. CROWE PROFESSIONAL  
LAW CORPORATION  
/s/ THOMAS E. CROWE  
THOMAS E. CROWE, ESQ.  
7381 W. Charleston Blvd., #110  
Las Vegas, NV 89117  
(702) 794-0373  
Attorney for Virginia Springall-Smith and  
Shane Smith

APPROVED/DISAPPROVED

Dated this \_\_\_\_ day of \_\_\_\_\_, 2010.

By: \_\_\_\_\_  
ZACHARIAH LARSON, ESQ.  
LARSON & STEPHENS  
810 S. Casino Center Blvd., #104  
Las Vegas, NV 89101  
Attorney for Debtor

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